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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,235	08/18/2003	Nicola Whilton	C4240(C)	3273

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EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,235

Applicant(s)

WHILTON, NICOLA

Examiner

Brian P. Mruk

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/19/04 & 9/15/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

2. Claim 22 is objected to because of the following informalities: In instant claim 22, a space should be inserted between "claim" and "1" for grammatical purposes.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 21-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 21 and 22 provide for the use of a composition, but, since the claims do not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it

Art Unit: 1751

merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 21 and 22 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-11 and 13-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujitani et al, U.S. Patent No. 5,855,624.

Fujitani et al, U.S. Patent No. 5,855,624, discloses a cellulose fiber that is treated with a composition that imparts increased dirt removability (see abstract). It is further taught by Fujitani et al that the composition contains a polycarboxylic acid containing at least 3 carboxyl groups, such as 1,2,3,4-butanetetracarboxylic acid (see col. 2, lines 40-46 and col. 4, lines 41-45), a hydrophilic polyol having an oxyethylene group and at

Art Unit: 1751

least 2 alcoholic hydroxyl groups (see col. 2, lines 46-48), and a neutralizing agent, such as sodium hypophosphite (see col. 8, lines 4-16), per the requirements of the instant invention. Specifically, note Example 7, which discloses an aqueous solution containing 8% by weight of 1,2,3,4-butanetetracarboxylic acid, 15% by weight of polyethylene glycol, and 4% by weight of sodium hypophosphite, that is applied to a cellulosic fiber in a washing/immersing step, followed by drying. Also, note Examples 8, 11, 12, and 18. Therefore, instant claims 1-11 and 13-22 are anticipated by Fujitani et al, U.S. Patent No. 5,855,624.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-18 and 21-22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sumitomo, JP 07102110.

Sumitomo, JP 07102110, discloses a composition comprising 10% by weight of polyvinyl alcohol, 10% by weight of 1,2,3,4-butanetetracarboxylic acid, and 10% by weight of sodium hypophosphite, that is used in a process for treating fibers (see attached abstract), per the requirements of the instant invention. Absent a full

Art Unit: 1751

translation of the document, claims 1-18 and 21-22 are anticipated by Sumitomo, JP 07102110.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions.

10. The examiner notes that the references cited in the International Search Report as "X" references are cumulative to the art rejections of record, and thus, have not been applied in this Office action in accordance with **MPEP 706.02**.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone

Art Unit: 1751

number for the organization where this application or proceeding is assigned is (703)

872-9306.

BPM

Brian Mruk

June 24, 2005

Brian P. Mruk

Brian P. Mruk

Primary Examiner

Tech Center 1700